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## Asylum seekers deserve a chance at a fair hearing

### ANTI-TERROR RULES CLOSE DOORS TO THOSE SEEKING A HAVEN IN AMERICA

Mercury News Editorial

America has always been a refuge from despotism, a safe harbor for those persecuted for their political beliefs, their race and their religion.

But that has changed since Sept. 11, as Mercury News reporter Howard Mintz detailed in a revealing series this week. Large numbers of asylum-seekers have become hostages of America's war on terror, their pleas for sanctuary dashed by short-order justice.

Legitimate claims will continue to be denied -- and lives put at risk through deportation -- until Congress reverses the Bush administration's actions of the past few years and creates immigration courts independent of the Justice Department.

Fearing that terrorists could manipulate the visa process to stay indefinitely in the United States, the Bush administration took steps to purge delays in the system, including those before the Board of Immigration Appeals. That court hears asylum requests denied by the nation's 215 immigration judges.

But instead of expanding the appeals board, former Attorney General John Ashcroft sliced it in half, to 11, and eliminated the three-judge panels which ensured that most complex asylum cases would get a full and fair airing.

The result -- rote verdicts and automatic denials -- has led federal courts of appeal, especially the 9th Circuit Court of Appeals, which covers California, to assert their role as protector of last resort. Citing shoddy justice, the 9th Circuit has overturned two-thirds of the most important appeals it heard since 2003.

That, in turn, led to another perversion of justice. In May, Republican leaders and the Bush administration pushed through the Real ID Act, which narrows the federal courts' role in asylum cases. It also requires asylum applicants to document their fear of persecution and death if they are deported -- an often impossible burden. Torture and rape rarely leave a paper trail.

It will take a change of heart -- or public pressure -- for the Bush administration to reverse course. But Congress could intervene by mandating more immigration appeals judges or by creating an independent immigration court system. The current system has an inherent conflict: The attorney general runs the courts and also prosecutes cases in front of the immigration judges he appoints.

Immigration officials should be vigilant against those who would inflict terror on us; they should also be accommodating to victims of it.